

COUNTY OF YORK

MEMORANDUM

DATE: August 10, 2004 (BOS Mtg. 8/17/04)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application No. ZM-85-04, 64 Enterprises, LLP

ISSUE

This application is a request to amend the York County Zoning Map by reclassifying approximately 15.0 acres of land located on the north side of Newman Road (Route 646) at its intersection with Fenton Mill Road (Route 602) from GB (General Business) and RR (Rural Residential) to conditional GB subject to voluntarily proffered conditions. The properties are further identified as Assessor's Parcel Nos. 2-9A and 2-9B.

DESCRIPTION

- Property Owner: 64 Enterprises, LLP and Ford's Colony First Choice Realty, Inc.
- Location: 1001 Newman Road and 2001C Newman Road
- Area: 15.0 acres
- Frontage: Approximately 946' on Newman Road (Route 646) and approximately 330' on Fenton Mill Road (Route 602)
- Utilities: Extension of public sewer and water underway
- Topography: Moderate and severe slopes to the west near Fenton Mill Road
- 2015 Land Use Map Designation: General Business and Low Density Residential
- Zoning Classification: GB – General Business and RR – Rural Residential
- Existing Development: Nonconforming residential structures
- Surrounding Development:
 - North: Future 84-lot residential subdivision (currently under review)
 - East: Church, single-family detached home
 - South: Newman Road; Skimino Fire Station beyond
 - West: Fenton Mill Road; Interstate 64 Lightfoot interchange beyond
- Proposed Development: Retail and office center

CONSIDERATIONS/CONCLUSIONS

1. The subject property consists of two parcels located on the north side of Newman Road (Route 646) at its intersection with Fenton Mill Road on the eastern side of the Lightfoot interchange of Interstate 64. The western parcel occupies approximately 5 acres and is zoned GB (General Business), while the eastern parcel occupies 10 acres and is zoned RR (Rural Residential). The property abuts the Banbury Cross subdivision and the Church of Jesus Christ of Latter Day Saints to the east and a future residential subdivision of 84 single-family detached homes (The Oaks at Fenton Mill) to the north. The Skimino Fire Station and Skimino Hills subdivision are located on the south side of Newman Road across from the subject property
2. The Comprehensive Plan designates most of the Skimino area east of I-64 for Low Density Residential development because of severe topography, poor road conditions, and lack of public utilities. For the east side of the Lightfoot interchange, however, the plan recommends commercial development:

However, a General Business node has been designated for the area immediately surrounding the east side (i.e., Newman Road) of the I-64 Lightfoot interchange because of its excellent access, topography, and configuration. Commercial development at this node should be oriented toward serving the needs of the surrounding community rather than a regional or tourist market. Such development should be a coordinated concentration of retail service uses of a scale in keeping with the character of the immediately surrounding development. Any commercial development in this area, however, should be deferred until public water and sewer are available. It is intended that convenience stores, service stations, fast food restaurants, and other similar establishments having relatively high traffic impacts and the potential for 24-hour and late-night operation be excluded from this area unless such uses are part of a concentrated community-oriented commercial grouping developed under a single development plan. To the extent possible, all commercial development at this node should be oriented to and front on Newman Road rather than Fenton Mill Road, which should remain a residential and residential-collector roadway.

Since the Comprehensive Plan is not intended to be parcel-specific, the precise geographic limits of this commercial node are not specified. Rather, the Land Use Map depicts the node conceptually as a semicircle surrounding the eastern side of the interchange.

3. The applicant seeks to develop a retail and office center by combining the two parcels under a single unified development plan. To achieve this, he has submitted this request to rezone the entire 15 acres from GB and RR to conditional GB subject to voluntarily proffered conditions that would restrict what uses can be developed on the property and how they can be developed. The applicant's conceptual plan divides the proposed development into three "villages," with proffered conditions that are increasingly restrictive as the proximity of proposed commercial development to existing residential development increases. For example, the proffers applicable to

Village C, which is in the eastern portion of the property abutting Banbury Cross and the church, are more restrictive than the proffers for Village A, located on the west side next to Fenton Mill Road; Village B falls between them both geographically and in terms of how restrictive the proffers are. The proffered conditions are summarized below:

- **Excluded uses.** As proffered, the range of permitted uses narrows as the distance from the Lightfoot interchange increases, with the more intensive uses – such as convenience stores, restaurants, hotels, motels, and gas stations – limited to the western and central portions of the property. All retail uses have been proffered out of Village C, the eastern portion of the property that abuts the church and Banbury Cross. Uses that have been proffered out of Banbury Village altogether include drive-in restaurants, contractor's storage yards, auto and boat sales, video arcades, pool halls, bowling alleys, skating rinks, golf driving ranges, bus and rail terminals, plant nurseries, farmers' markets, meeting halls, cemeteries, indoor theatres, small engine repair, storage shed and utility building sales, funeral homes, taxi and limousine services, wholesale auction establishments, and recycling plants. A complete listing of uses that will be permitted on the property if the application is approved as proffered is attached to this memorandum. It should be noted that many of the uses (convenience stores and gas stations, in particular) would be permitted only if a Special Use Permit were approved by the Board of Supervisors.
- **Architectural design.** To provide for an aesthetically superior development, the applicant has proffered a series of architectural design guidelines that would apply to any development within Banbury Village. The guidelines, a copy of which is attached to this memo, require exterior materials to be of brick, stone, wood siding, or stucco, or of manufactured materials simulating these sidings. Specific architectural styles that would be permitted are Colonial, Georgian, Neo-classical, Victorian, and Transitional. These design guidelines would be enforced by an Architectural Review Committee (ARC), which the applicant has proffered to create, consisting of the property owner, the president of the Banbury Cross Homeowner's Association, an architectural consultant, and possibly other members of the Banbury Village property owners association. The ARC would have authority for reviewing any proposed construction within the development to ensure compliance with established architectural design guidelines. The guidelines would also be enforced by the County since the applicant has proffered that site plan submissions for any construction in Banbury Village would include architectural elevations, including proposed building materials and colors, for the Zoning Administrator's approval. The developer would have the right to appeal the decision of the Zoning Administrator to the Planning Commission, and the decision of the Planning Commission to the Board of Supervisors. This is practically the same process that the Zoning Ordinance spells out for development in the Tourist Corridor Management (TCM) area overlay district, but since Newman Road is not within the TSC district, the County could not impose such a requirement unless proffered by the applicant.

- **Landscaping.** The applicant has proffered to provide a Type 35 (35') transitional buffer surrounding the entire development. Ordinarily the Zoning Ordinance would require only a 17.5' buffer along Newman Road and no buffer along the Fenton Mill Road frontage. Along the rear (northern) property boundary, the Zoning Ordinance would require placement of a 35' buffer on the adjacent residential property when it develops, and none on the commercial property. Instead, under the applicant's proffer and the Oaks at Fenton Mill cluster development plan, there will be a total buffer width of 80' separating the proposed commercial development and the proposed residential lots (35' on Banbury Village and 45' on Oaks at Fenton Mill). In addition, the applicant has proffered to provide a 50' buffer and a six-foot (6') landscaped berm in the northeast corner of the property where it abuts a home in Banbury Cross. The applicant also has proffered to plant street trees along the internal roads in the development as an aesthetic amenity.
- **Limitations on bulk.** In an effort to limit the scale of development and preclude construction of a conventional strip shopping center, the applicant has proffered to limit the maximum allowable building footprint to 15,000 square feet in Village A, 10,000 square feet in Village B, and 5,000 square feet in Village C. In addition, to reduce visual impacts on nearby residential areas, the applicant has proffered to limit the maximum building height to forty feet (40') in Villages B and C (the same height as is allowed on the adjacent residentially zoned properties). In Village A the standard fifty-foot (50') maximum building height for GB zoning would apply.
- **Lighting.** To prevent spillover glare onto adjacent properties, the applicant has proffered to limit site lighting to a maximum of 0.1 foot-candle at all property lines and to limit the height of light poles to a maximum of twenty feet (20'). In addition, the applicant has proffered that all street and parking lot lighting will be high pressure sodium bulbs, which is the type that emits the "amber" or "daylight" effect rather than the bright white characteristic of mercury vapor.
- **Pedestrian connections.** To facilitate pedestrian access to the proposed development from neighboring areas, the applicant has proffered to establish two pedestrian connections between the proposed development and neighboring properties, one tying in to the church parking lot to the east and the other tying in to a walking trail that is planned as part of the residential subdivision (Oaks at Fenton Mill) to the north. There will also be pedestrian connections linking the buildings within the development so that people can walk safely from one business to another.
- **Signs.** To avoid excessive visual clutter, the applicant has proffered to limit the number, type, size, and height of freestanding signs on the property. Specifically, the proffers provide that all freestanding signs will be monument-type signs. Monument signs tend to be less visually obtrusive than pole signs and thus more compatible with residential development. Although with over 900 feet of frontage on Newman Road, the development would ordinarily be entitled to as many as nine separate freestanding signs along Newman Road under GB zoning, the applicant has proffered that there will be no more than five, one of which will be an entrance sign identifying the entire development. Finally, these signs will be no higher than eight feet (8'), no larger than 50

square feet in area, and all would have a consistent design for the monument structure and a consistent background color. In contrast, the normal Zoning Ordinance requirements would allow monument signs in the GB district to be a maximum of 64 square feet in area and ten feet (10') in height and provide no guidance on color or design consistency.

- **Community feature.** The applicant has proffered to install some type of “community architectural feature consisting of a village icon that is unique to the project,” such as a clock tower or gazebo, that would be no taller than 30' with a footprint not to exceed 16' by 16'.

In preparing these proffers the applicant considered the expressed desires of nearby residents. Prior to submitting this application, the applicant and his architect conducted a series of community meetings with residents of surrounding areas to give them an opportunity to share their ideas and potential concerns and to attempt to incorporate them into the plans and proffers. The ultimate goal was to develop a plan that the surrounding community could support. In addition, since the Planning Commission public hearing the applicant has amended the proffers in an attempt to address additional neighborhood concerns.

4. The applicant has submitted a “non-binding conceptual plan” for the proposed development depicting twelve shops and office buildings on the ten-acre parcel ranging in size from 3,500 to 10,000 square feet. On the five-acre parcel the plan shows a somewhat larger building labeled “Reserved for future retail, restaurant or motel site.” However, the applicant has not proffered this concept plan, so there is no assurance that what eventually is built on the property – if this application is approved – will look exactly like the development shown on the plan. In fact, all four of the buildings depicted in the eastern portion of the property (Village C) near the church and Banbury Cross are larger than the proffers would permit, while almost all of the building footprints depicted in Villages A and B are smaller than the proffers would allow.

In the absence of a proffered concept plan, the applicant has proffered a “Key Master Plan Elements Plan” depicting the various design elements – street layout, buffers, berm, pedestrian connections, tree-lined streets, etc. – that are discussed in the proffer statement and will become conditions of the rezoning if this application is approved. Proffered conditions apply to the land and not the landowner; therefore, if the application is approved and the proffers accepted by the Board of Supervisors, they will apply to any development of the subject property even if the applicant were to sell the property to another developer. Accordingly, any future owner of the property would be subject to the same conditions and architectural guidelines proffered by the current owners.

5. Although the northeast corner of the property does abut one single-family detached home in Banbury Cross, the vast majority of adjacent property is undeveloped. The 110-acre parcel directly behind the subject property is the future site of an 82-lot subdivision of single-family detached homes known as The Oaks at Fenton Mill, which is permitted as a matter of right and is being developed under the *cluster* or

open space subdivision regulations set forth in Section 24.1-402 of the Zoning Ordinance. As shown on the development plan for this subdivision, which has not yet received final approval from the County, there will be a 45' buffer surrounding the development, as required by the Zoning Ordinance regulations for cluster subdivisions. Where The Oaks property abuts the subject property, the buffer is 45' in width, increasing to a maximum of 186 feet on the western side in the area of the GB-zoned parcel. A mulch bicycle/walking trail is to be constructed within this buffer area. The subdivision plan also depicts a future extension of Londonderry Lane, within a right-of-way originally platted as part of Banbury Cross, from its existing terminus at Kingsgate Road to interconnect with the planned street system within The Oaks. This interconnection is required by the Subdivision Ordinance, and the 50' right-of-way for this road has been platted to the boundary of Banbury Cross to allow for future extension to the adjacent property. Concerns have been expressed by residents of Banbury Cross that if this rezoning application is approved, the extension of Londonderry Lane could somehow be tied into the Banbury Village commercial development. It should be noted that there are no plans for any kind of road connection between Londonderry Lane and Banbury Village, and since the subject property does not abut the platted right-of-way, the developer would have no right of access. More importantly, such a connection is explicitly prohibited by Section 24.1-252 of the Zoning Ordinance, which prohibits access by a non-residential use to a residential street unless the Board of Supervisors were to approve a Special Exception, and finally, it would be inconsistent with the proffered street layout for Banbury Village.

6. The applicant has structured the proffers in such a way as to minimize the impacts on existing residential development. As noted earlier, as proximity to existing homes increases, the intensity of permitted uses decreases, as do the maximum building size and height. In addition, if the application is approved, all development in Village C – the area closest to Banbury Cross – will be required to have pitched roofs, which will give them a more residential appearance. The 35' landscape buffer that will surround the property will increase to 50' where it abuts an existing home. Other nearby homes in Banbury Cross and Skimino Hills would be buffered from the proposed development by the church, which occupies a 2.76-acre parcel. The top of the church's roof-mounted steeple measures about 64 feet from the ground, while the height of the church building itself is approximately 28 feet. The floor area of the church is approximately 13,500 square feet – almost three times the 5,000-square foot maximum building footprint that would be allowed in the Village C, where the maximum building height would be 40', which is the same height allowed in the adjacent residential subdivisions.

7. Pursuant to Section 24.1-251(a)(3) of the Zoning Ordinance, the applicant submitted a traffic impact analysis of the proposed development. Since the specific uses within the development are not known, the applicant's traffic engineer prepared the study using an assumed mix of uses listed in Table 1 below with the estimated trip generation for each:

Table 1: Trip Generation for Assumed Mix of Uses in proposed Banbury Village

Land Use	Size	Daily Trips (Weekday)	Peak-Hour Trips	
			AM	PM
Convenience store with gas pumps	5,000 sq. ft.	4,228	228	304
High-turnover (sit-down) restaurant	5,000 sq. ft.	636	58	54
Motel (100 rooms)	31,000 sq. ft.	563	44	47
Specialty retail	23,500 sq. ft.	1,042	N/A	64
Day care center	10,000 sq. ft.	796	128	132
General office	8,000 sq. ft.	88	12	12
Medical/dental offices	14,000 sq. ft.	506	34	52
Bank with drive-through windows	3,500 sq. ft.	863	43	160
Total	100,000 sq. ft.	8,721	548	824
Total less VDOT pass-by trip reduction (25%)		7,448	480	708

Based on trip generation rates published in the Institute of Transportation Engineers' (ITE) *Trip Generation* manual (7th Edition), the cumulative number of trips estimated to be generated by these uses would be 8,721 vehicle trips per day, including 548 in the AM peak hour and 824 in the PM peak hour. A certain percentage of these trips will be "pass-by" trips that are attracted from the existing traffic stream; in accordance with Virginia Department of Transportation (VDOT) standards, the traffic impact analysis deducts 25% of the bank and convenience store trips from the total number of trips to account for pass-by trips, although studies suggest that actual pass-by rates may be higher – in some cases significantly higher. For example, ITE surveys indicate the actual pass-by rate could be as high as 43% for a high turnover (sit-down) restaurant,¹ 47% for a drive-in bank, and 66% for a convenience store with gas pumps.² The convenience store with gas pumps, which accounts for almost half of the trips to be generated by "Banbury Village," would generate 3,171 *new* trips per day by VDOT standards; the ITE data suggest the actual number of new trips could be less than half that figure (*note: a convenience store / gas station would be permitted only if a Special Use Permit were approved by the Board of Supervisors*). In addition, the Traffic Institute of Northwestern University estimates that for a retail development with 100,000 square feet of gross leasable area, pass-by trips account for an average of 50% of the traffic generated.³

¹ The ITE *Trip Generation* manual (7th Edition) defines high-turnover (sit-down) restaurants as "sit-down, full-service eating establishments with turnover rates of approximately one hour or less. This type of restaurant is usually moderately priced and frequently belongs to a restaurant chain. Generally, these restaurants serve lunch and dinner; they may also be open for breakfast and are sometimes open 24 hours per day. These restaurants typically do not take reservations. Some... may also contain a bar area for serving food and alcoholic drinks." (p. 1722)

² Institute of Transportation Engineers (ITE), *Trip Generation Handbook*, (March 2001) pp. 64-67.

³ Vergil G. Stover and Frank J. Koepke, *Transportation and Land Development*, 2nd Edition (2002), pp. 3-34 to 3-35.

In addition, the estimated trips do not account for internal trips between and among uses within this multi-use development. As stated in the *ITE Trip Generation Handbook*,

“While the trip generation rates for individual uses on such sites may be the same or similar to what they are for free-standing sites, there is potential for interaction among those uses within the multi-use site, particularly where the trip can be made by walking. As a result, the total generation of vehicle trips entering and existing the multi-use site may be reduced from simply a sum of the individual, discrete trips generated by each land use. A common example of this internal trip-making occurs at a multi-use development containing offices and a shopping/service area. Some of these trips made by office workers to shops, to restaurants, or to banks may occur on site. These types of trips are defined as internal to (i.e., ‘captured’ within) the multi-use site.”⁴

Although the survey data are extremely limited, the data that are available suggest that as many as 28% of daily retail-oriented trips and 15% of office-oriented trips within a multi-use development could come from other retail uses in the development.⁵

In summary, although the traffic study estimates that the proposed development would generate 8,721 trips per day, of which 7,448 would be *new* trips, staff believes that when internally captured trips and pass-by trips are taken into account, a more realistic estimate of new trips generated by the proposed development would be in the range of 4,500 to 5,000 average daily trips. (By comparison, a 100,000-square foot shopping center would be expected to generate about 4,300 trips per day.) Nevertheless, the higher figure supplied by the applicant’s traffic engineer has been approved by VDOT and will serve as the basis for any road improvements, signal warrant analysis, and Level of Service analysis associated with the proposed development.

According to the traffic study, the vast majority of trips generated by the proposed development (80%) would be to and from Route 199 and Interstate 64 to the west. Ten percent would be from Newman Road to the east, and 5% each would be from Fenton Mill southbound and northbound. The segment of Newman Road that will carry most of this traffic (i.e., in the vicinity of Fenton Mill Road and the I-64 Lightfoot interchange) is a four-lane divided highway that narrows to a two-lane undivided highway approximately 200’ west of the proposed main entrance to the development. Newman Road carried an average of 3,000 vehicle trips per day in 2002 (the most recent year for which data are available), according to VDOT. Peak-hour traffic counts taken in April 2004 by the applicant’s traffic engineer show that Newman Road carries approximately 308 vehicles (212 westbound and 96 eastbound) in the AM peak hour (7:30 to 8:30) and 502 vehicles (177 westbound and 325 eastbound) in the PM peak hour (4:45 to 5:45). Based on the trip estimates in the traffic study, the proposed development can be expected to add 48 vehicles (10% of 480 trips) to Newman Road between the proposed Banbury Village and the James

⁴ ITE, *Trip Generation Handbook*, p. 79.

⁵ Ibid, p. 88.

City County line in the AM peak hour and 71 (10% of 708 trips) in the PM peak hour. These trips are not sufficient to warrant construction of a right turn lane or even a taper at either of the proposed entrances.

The segment of Newman Road between Fenton Mill Road and the proposed Banbury Village is estimated to carry an additional 432 vehicles in the AM peak hour and 637 vehicles in the PM peak hour. These trips, combined with assumed increases in “background traffic” based on overall traffic growth not caused by the proposed development, are sufficient to warrant the construction of a full-width 125’ left-turn lane along eastbound Newman Road at the main entrance to the development. The Virginia Department of Transportation (VDOT) has indicated that a 200’ left turn lane with a 200’ taper will be required if the application is approved.

The traffic study includes a Level of Service analysis for the Newman Road intersections with both Fenton Mill Road and the I-64 off-ramp. Level of Service (LOS) is a qualitative measure describing operational conditions within a traffic stream; generally described in terms of such factors as speed and travel time, freedom to maneuver, traffic interruptions, comfort and convenience, and safety. Traffic engineers recognize six Levels of Service ranging from LOS A (little or no delay) to LOS F (extreme delays causing severe congestion).⁶

According to current traffic counts, both intersections currently operate at Level of Service A and would continue to do so after the development of Banbury Village. Average delays would increase at both intersections, however. The greatest impact would be felt by drivers on Fenton Mill Road during the PM peak hour, where the average intersection delay would increase from 12.1 to 16.9 seconds for traffic approaching the intersection from the south and from 10.0 to 16.2 seconds for traffic approaching from the north. As a result, the LOS for vehicles traveling through the intersection from Fenton Mill Road would be reduced from B to C. Vehicles exiting the westbound lanes of I-64 onto eastbound Newman Road during the PM peak hour also would experience a longer average delay of 13.3 seconds rather than the current 10.0 seconds, with a reduction from LOS A to B. The lowest Level of Service would be experienced not by vehicles traveling on the public road network but by vehicles that are exiting Banbury Village to turn left onto Newman Road, where the estimated average delay of 30.9 seconds results in a LOS D. It should be noted that whether or not this application is approved, average delays at both existing intersections are expected to increase over time, although not significantly (i.e., by no more than half a second), as a result of traffic growth caused by other development in the area, particularly The Oaks at Fenton Mill.

In conclusion, even under conservative assumptions that, in staff’s opinion, tend to overestimate trip generation, traffic impacts of the proposed development on Newman Road and its intersection with Fenton Mill Road would not create unacceptable Level of Service ratings. No signal would be warranted because of this development alone at the intersection of Newman and Fenton Mill Roads, which, along with the intersection of Newman Road and the off-ramp from westbound I-64, would

⁶ Transportation Research Board, *Highway Capacity Manual, Special Report 209* (Third Edition), 1998, p. A-3.

experience some increase in delays but would continue to operate at good levels. Nor would a signal be warranted at the main entrance to the development, where construction of a left turn lane would preserve the carrying capacity of Newman Road by removing site-generated traffic from the eastbound travel lane. The vast majority of traffic generated by the proposed development would occur on the four-lane segment of Newman Road that is able to accommodate it. Inasmuch as I-64 and Route 199 in this area carry over 50,000 and 18,000 vehicles per day respectively, I believe it is reasonable to assume that 80% of the traffic generated by the proposed development will be from that direction; Newman Road and Fenton Mill Road, in contrast, carry an estimated 3,000 and 1,200 vehicle trips per day.

It should be added that lands in James City County served by Newman Road, Riverview Road, and Fenton Mill Road are designated as "Rural Lands" in the James City County Comprehensive Plan and are zoned A-1 (General Agricultural). As such, they have limited development potential and are not expected to generate significant increases in traffic in the future. While it is possible to access York River State Park via Newman Road, that route is not signed as the primary access route. State officials are currently developing a master plan for potential improvements at the park and a previous draft of that plan included proposals that could have re-oriented the access to be more dependent on Newman Road. However, according to information provided to staff on August 9, 2004, that proposal is no longer part of the draft plan.

7. Environmentally sensitive areas on the property are confined to steeply sloping areas in the western portion of the 5-acre GB-zoned parcel. Accordingly, any development of these areas will be subject to the provisions of the Environmental Management Area (EMA) overlay district set forth in Section 24.1-372 of the Zoning Ordinance. The developer will be required to submit a Natural Resources Inventory, and in those areas with slopes in excess of 20%, no roads, driveways, structures, or land disturbing activities will be allowed except where the Zoning Administrator determines that no other practical option exists. There do not appear to be any wetlands on the site, according to the National Wetlands Inventory, and none of the property is within a Chesapeake Bay Preservation Area.
8. Staff estimates that if the RR-zoned parcel were developed for single-family detached homes under the current zoning, it would yield approximately eight (8) lots and have a very small negative fiscal impact on the County (since the cost of providing services – particularly educational services – to residential development generally exceeds the property tax revenues generated). Because the exact mix, number, and size of uses are not yet known, it is impossible to estimate the likely tax revenue that would be generated by establishments within Banbury Village. The following table shows average retail sales data for a hypothetical sampling of retail uses that would be permitted in one or more of the three "Village" areas within Banbury Village:

Table 2: Average Retail Sales per Establishment in York County, 2003

Retail Establishments	Average Sales
Clothing stores	\$77,890
Drug stores	\$243,600
Furniture, home furnishings, & equipment	\$166,120
Gas stations	\$303,470
Grocery stores (non-chain)	\$268,720
Miscellaneous (antiques, books, florists, etc.)	\$160,040
Restaurants, delicatessens, cafes, etc.	\$581,000

Source: Virginia Department of Taxation

Because of the lack of information at this stage as to what types of uses will actually be built if this application is approved, a detailed fiscal impact analysis is beyond the scope of this report. Medical offices, for example, would likely yield more business personal property tax revenue than would ordinary offices, and restaurants would yield meals tax revenue (4.0%) in addition to the sales tax revenue generated. Suffice it to say that the proposed development would have a much more positive fiscal impact on the County than would a residential subdivision developed under the existing zoning.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at its June 9 meeting and conducted a public hearing at which 23 citizens spoke. Twenty-one of those who spoke opposed the application, while two supported it. Opponents of the rezoning also presented a petition with 217 signatures representing 99 households in York County and 31 in James City County. Most of the citizens who spoke were residents of Banbury Cross, Old Quaker Estates, or Skimino Hills, with several residents of Skimino and Barlow Roads also speaking. Many of those who spoke against the application noted that they had moved to the Lightfoot area for the peace and quiet and felt that the proposed development would upset the rural character with noise, activity, and excessive lighting. Speakers also expressed concern about the additional traffic that the development would bring and possible safety impacts on Newman Road, particularly with the fire station located across the street from the subject property. In addition, several of those who spoke opined that the rezoning would be in violation of the Comprehensive Plan; they noted that the community that commercial development is supposed to serve, according to the plan, do not want or need the development.

Subsequent to conducting the public hearing, the Commission voted 5:1 (Mr. Simasek dissenting and Mr. Davis absent) to recommend approval.

COUNTY ADMINISTRATOR RECOMMENDATION

The desire for peace and quiet expressed by many of the nearly 700 households that live in the Skimino area east of Interstate 64 is natural and understandable. Unfortunately, the fact that no development has occurred in this location may have created a false sense of

security that commercial development could never occur there when, in fact, the County's first adopted Land Use Plan, adopted by the Board in 1976, designated this area as a commercial node, and that designation has been carried forward into every subsequent land use plan. I believe the proposed rezoning is consistent with the Comprehensive Plan, which calls for a commercial node in the area surrounding the east side of the Lightfoot interchange. Why, then, is most of the property zoned Rural Residential if the intent of the Comprehensive Plan is for the property to be developed commercially? It is important to note that the plan specifies certain criteria that would have to be met in order for commercial development to be acceptable (oriented to Newman Road, developed under a cohesive master plan, public utilities). If the property were already zoned General Business, the County would have no means of requiring any commercial development in that location to meet these conditions. By giving it a Rural Residential classification, the Board ensured that nothing more intensive than low-density residential development would be permitted in this location without its approval and the Planning Commission's review.

One of the issues cited by speakers at the Planning Commission public hearing dealt with the orientation of commercial development in this area. The Plan indicates that *"commercial development at this node should be oriented toward serving the needs of the surrounding community rather than a regional or tourist market."* With the exception of a hotel, which I believe is a potential use on the existing commercial parcel, I believe that the scale and arrangement of uses likely to be developed in Banbury Village (if approved) will provide services that will be used and frequented by the surrounding community. The proffers concerning street layout and building size will ensure that the site is not able to accommodate "big-box" uses that depend on a regional market. Granted, a fast-food restaurant or a convenience store/gas station (if approved by Special Use Permit) would serve Interstate traffic but undoubtedly would be frequented by residents of the surrounding community as well. Likewise, office and personal service establishments would be likely users in a development such as this and they would serve the surrounding communities. I do not believe the Comprehensive Plan intended to totally exclude uses that could attract traffic from beyond the community. Instead, I believe that the intent was to exclude large-scale regional and tourist-oriented uses that would overwhelm the surrounding communities in scale and intensity. I believe that the applicant's proffers ensure that this will not be the case and, therefore, assure consistency with the guidance provided by the Comprehensive Plan.

I believe the applicant's effort to include neighboring residents in the planning and design of this project is commendable. The result of that effort, in my opinion, is a development that would be compatible with the surrounding area. The one existing home that abuts the proposed development would be buffered by a berm and 50' of landscaping, while the adjacent church would be protected from visual and noise impacts by a 35' landscaped buffer. Future homes in The Oaks at Fenton Mill would be separated from the proposed development by at least 80' of green space (45' on The Oaks side and 35' on the Banbury Village side). The limitations on building size and height would provide for commercial development of a scale that is compatible with the surrounding area; the existing church to the east is almost three times the size of the largest commercial building that would be permitted in the eastern area adjacent to Banbury

Cross, and the proffered 40' maximum building height in this area is the same as that which would apply to residential development under the current Rural Residential zoning. Buildings in this area would all have pitched roofs – similar to residential construction – and buildings in the remainder of the development would have either pitched roofs or parapet walls surrounding flat roofs. Furthermore, the proffered architectural guidelines – to be enforced by both a property owners' association review board that would include the president of the Banbury Cross HOA *and* the County – would help to ensure an aesthetically appealing development.

That is not to say that this proposal is entirely without flaws. Although the applicant has proffered to limit the number, height, and size of any freestanding signs, I still believe that limiting the Newman Road signage to a single freestanding identification sign for the entire development would provide for a much more visually attractive streetscape. . It would also demonstrate the applicant's sensitivity to the concerns of nearby residents and his commitment to providing a quality development that will be harmonious with its surroundings. I also believe that a right turn lane into the development, though not warranted by the projected traffic volumes, would provide a safer turning movement for large campers and recreational vehicles entering the development from the two campgrounds to the east. Both of these issues were identified to the applicant as areas of concern that could potentially be addressed through supplementary proffers. Also identified, at the request of representatives of the surrounding communities, was the issue of safe pedestrian traffic along Newman Road between Kingsgate Road and the proposed entrance to the development. While the developer has done a good job of proposing pedestrian connections to the adjoining properties (The Oaks at Fenton Mill and the adjacent church), there are no proposals for a sidewalk along the Newman Road frontage of the project to accommodate the pedestrian traffic that would likely be attracted to the site from Banbury Cross and Skimino Hills nor are any such accommodations required by the basic terms of the Zoning Ordinance. If this development is approved, I believe this location should be evaluated as a potential sidewalk project to be funded through the Sidewalk Development fund that is part of the Board-approved CIP.

The proposed Banbury Village would generate significantly more traffic than would a residential subdivision built in accordance with the current zoning (several thousand trips vs. 80 trips per day). However, the vast majority of this traffic would be oriented toward I-64 and Route 199 along the four-lane segment of Newman Road. Construction of a left turn lane at the entrance to the development, as proffered by the applicant and required by VDOT, would prevent serious deterioration of traffic flow as a result of the development. This is particularly important since the Skimino Fire Station (Fire Station #5), which provides fire and emergency medical service to the Skimino and Lightfoot areas and the Mooretown Road corridor, is located across the street from the subject property.

To the east of the subject property, beyond Banbury Cross and Skimino Hills, Newman Road is relatively narrow and winding, lacks adequate shoulders, and has sight distance deficiencies in areas. Improvements to this road were included in the County's Six-Year Secondary Road Plan several years ago but were subsequently removed because of the high cost, relatively low traffic volumes, and a lack of funds. I would not recommend

approval of a development proposal that would significantly increase traffic on this segment of Newman Road. However, the addition of up to 50-70 trips in either the AM or PM peak hour, as projected for this proposed development, would not, in my opinion, adversely affect the safe and efficient movement of traffic on this road segment.

With respect to road conditions and improvement needs, it is important to note that VDOT and the County will evaluate existing and projected conditions at the time any specific development proposal is submitted (i.e., subdivision or site plan). If this rezoning request is approved, the developer will be required to prepare detailed design plans that include more specific information concerning uses and/or site layout. Traffic analyses will be required as part of those submissions and the ensuing VDOT and County review could lead to requirements for more or different improvements than projected based on the conceptual plans now being discussed. The developer will be held responsible for their immediate traffic needs and for their proportionate share of such improvements as may be needed in if additional warrants are met in the near future (i.e., future turning lane or signal needs generated partially, but not fully, by their projected traffic).

In conclusion, while I understand the community's desire that the property (both the 5-acre parcel and the 10-acre parcel) remain undeveloped, I believe development is inevitable now that public utilities are available. Given that the 5-acre parcel currently zoned GB will most likely be developed, it is my opinion that the current proposal (including the 10-acre parcel) providing a transition from more intensive commercial uses – to less intensive uses - to residential uses will yield a higher quality development than might otherwise be expected. The Comprehensive Plan lays out in very specific terms the criteria that have to be met in order for commercial development to be approved in this location. I believe the applicant's development proposal meets or exceeds these criteria and, therefore, recommend that the Board approve this application subject to the voluntarily proffered conditions. This can be accomplished through the adoption of proposed Ordinance No. 04-19.

Carter/3337:TCC

Attachments

- Excerpts of Planning Commission minutes, June 9, 2004
- Zoning Map
- Proffer Statement – dated July 30, 2004, including Exhibits A, B and C.
- Conceptual Plan of Banbury Village – Villages A, B and C
- Key Master Plan Elements
- Non-Binding Conceptual Plan
- List of General Business Land Uses
- Petition submitted to the Planning Commission
- Correspondence related to the application
- Proposed Ordinance No. 04-19

Copy to: Vernon Geddy, III